

Appl. No. : 10/541,281
I.A. Filed : December 31, 2003

REMARKS

Claims 1, 4, and 6 stand rejected. Claim 21 has been added and is supported by the specification. Claims 1, 4, 6, and 21 remain pending in the application and are presented for examination in view of the foregoing amendments and the following remarks.

Discussion regarding Rejection under 35 U.S.C. § 112, ¶ 2

The Examiner rejected Claims 1, 4, and 6 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner pointed out that "the opening" and "said opening" lacked antecedent basis. Further, Examiner argued that the phrases "a number of punched openings" and "one or more openings" are confusing. Applicant has amended Claims 1, 4, and 6 for clarity and respectfully request withdrawal of the rejection under 35 U.S.C. § 112.

Discussion regarding Rejection under 35 U.S.C. § 102(b)

The Examiner has rejected Claims 1, 4, and 6 under 35 U.S.C. § 102(b) as being anticipated by Wilfong, Jr. (U.S. Patent No. 4,995,860). Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See MPEP § 2131*. Applicant further submits that each and every element of Claim 1 is not found, either expressly or inherently, in Wilfong, Jr.

Claim 1 is directed towards "a bundle of flattened foil bags having a generally uniform thickness and configured to be supported on a pin support of a foil bag opening machine," and recites, *inter alia* "a plurality of first incisions extending through the foil bag, the first incisions having a closed shape" and "a plurality of second incisions in the front portion extending between the upper edge and the plurality of first incisions." Wilfong Jr. fails to disclose the recited structure.

Wilfong Jr. discloses a number of foil bag embodiments, none of which are supported by a pin support of a foil bag opening machine or suitable for use in a foil bag opening machine. Figure 11 of Wilfong Jr., shown below, shows a foil bag with U-shaped (non-closed or open) incisions proximal to the upper edge of the bag. Applicant submits that such a bag is unsuitable for use in a flattened bundle of bags supported by a foil bag opening machine. The U-shaped

incisions result in a "flap" of material which would disturb the opening process if the bundle of Wilfong Jr. were placed on a pin support of a foil bag opening machine. Further, the flap of extra material would make prevent the bundle of bags from having a generally uniform thickness, as the extra material would be forced between bags, substantially increasing the thickness of the bundle near the U-shaped incisions. Accordingly, the embodiment shown in Figure 11 of Wilfong Jr. lacks "a plurality of first incisions extending through the bag, the first incisions having a closed shape" as recited in Claim 1.

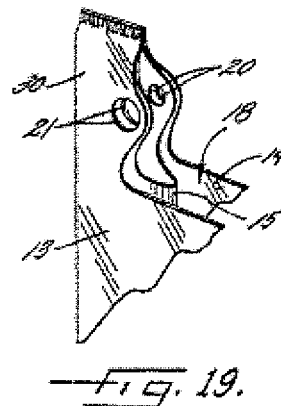
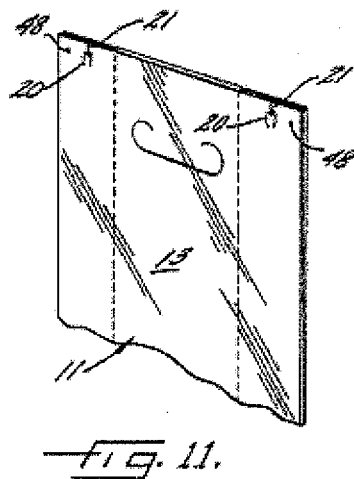


Figure 19 of Wilfong Jr., shown above, shows a foil bag with circular holes cut within a portion of the foil bag. However, Figure 19 fails to show "a plurality of second incisions in the front portion" as recited in Claim 1. Applicant respectfully submits that the feature of "a plurality of second incisions in the front portion extending between the upper edge and the first incisions," wherein "the first incisions hav[e] a closed shape" is not disclosed in the Wilfong Jr. reference. Applicant further submits that the feature of "configured to be supported on the pin support of a foil bag opening machine" is also not disclosed in Wilfong Jr.

Dependent Claims

Claims 4, 6, and 21 depend directly from Claim 1 and, thus, are patentable for at least the same reasons that the claim from which they depend is patentable over the applied art. Therefore, allowance of dependent Claims 4, 6, and 21 is respectfully requested.

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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language.


The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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